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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/237,194 01/26/99 BROWN

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EXAMINER
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MORGAN, G	
ART UNIT	PAPER NUMBER

2761

DATE MAILED:

04/27/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/237,194**

Applicant(s)

**Brown**

Examiner

**George Morgan**

Group Art Unit

**2761**



☒ Responsive to communication(s) filed on Feb 28, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 25-33 is/are pending in the applicat

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 25-33 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Continued Prosecution Application*

1. The request filed on February 28, 2000 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/237,194 is acceptable and a CPA has been established. An action on the CPA follows.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 26 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention
4. As per claim 26, the term "palm top computer" is indefinite.
5. As per claim 27, the term "personal digital assistant or PDA" is indefinite.

### *Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 25 and 29-33 are rejected under 35 U.S.C. 102(b) as being anticipated Fujimoto,

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U.S. Patent No. 5,339,821.

As per claim 25, *Fujimoto* discloses a health monitoring system comprising:

a monitoring device for monitoring a condition indicative of a person's physical well-being and for generating a digitally encoded health signal representative of said monitored condition [Figure 5 (monitor person's blood pressure)];

a patient interactive and feedback unit coupled to said monitoring device comprising:

a display [Figure 2, Ref. No. 14];

an input device for receiving input [Figure 2, Ref. No. 15, 16, 17 (buttons for entering "yes," "no," and a selection)];

a memory comprising program components [Figure 4, Ref. No. 33]; and

a processor coupled to said input device and said display [Figure 4, Ref. No. 25 (cpu)] for generating a video signal according to at least one of the stored program components, the received input and the generated digitally encoded health signal, wherein said display generates a display according to said generated video signal;

a signal interface coupled to said interface unit for generating a transmission signal according to at least one of said generated video signal and the generated digitally encoded health signal [Figure 1, Ref. No. 2]; and

a health provider unit comprising a processor and display [Figure 1, Ref. No. 5], said health provider unit is coupled to the signal interface over a digital network for receiving the generated transmission signal [Figure 1, Ref. No. 3], wherein the processor of said health provider

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unit generates a video signal according to said received transmission signal and said display of said health provider unit generates a display according to said video signal generated by the processor of said health provider unit [Figure 1, Ref. No. 3].

As per claim 29, *Fujimoto* discloses that said memory stores said monitored condition indicative of the person's physical well-being, said video signal generated by said processor of said patient interactive and feedback unit is a trend chart corresponding to said stored monitored condition indicative of the person's well-being, and said display of said patient interactive and feedback unit displays said trend chart [Figure.6 (EKG)].

As per claim 30, *Fujimoto* discloses that said patient interactive and feedback unit receives information from the health provider unit, processes the received information and displays the processed information on the display [col. 5, line 68 to col. 6, line 9 (doctor remotely inputs medical questions that are then transmitted to the apparatus)].

As per claim 31, *Fujimoto* discloses a health monitoring method comprising:  
monitoring a patient for a health-related parameter and generating an encoded health signal representative of said monitored parameter [Figure 5 (monitor person's blood pressure)];  
generating a display for viewing by the patient according to the encoded health signal [Figure 5 (note that blood pressure value is displayed in this process)];  
generating a transmission signal incorporating the encoded health signal [Figure 1]; and  
transmitting said transmission signal to a remote facility [Figure 1].

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As per claim 32, *Fujimoto* discloses generating a digitally encoded health signal comprises generating a history of said monitored health-related parameter and generating a display comprises a display of a trend chart corresponding to said generated history of said monitored health-related parameter [col. 8, lines 31-34 (“Further, the host computer can provide a display of a variation graph of the blood pressure, the pulse, the body temperature, the weight and so forth for the last month....”)]].

As per claim 33, *Fujimoto* discloses generating a display at said health provider unit according to said received transmission signal [Figure 1].

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Fujimoto*, U.S. Patent No. 5,339,821.

As per claim 26, *Fujimoto* does not disclose that the patient interactive and feedback unit is a palmtop computer. Official notice is taken that palmtop computers capable of providing interaction and feedback are well known in the computer arts. E.g., 3Com Palm Pilot. It would have been obvious to one of ordinary skill in the art at the time the invention was made to

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incorporate some of the functionality of the invention using a palmtop computer. The motivation would have been to provide a convenient way to provide interaction.

As per claim 27, *Fujimoto* does not disclose that the patient interactive and feedback unit is a personal digital assistant or PDA. Official notice is taken that personal digital assistants (PDA's) capable of providing interaction and feedback are well known in the computer arts. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate some of the functionality of the invention using a PDA. The motivation would have been to provide a convenient way to provide interaction.

10. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Fujimoto*, U.S. Patent No. 5,339,821, in view of *Fu et al.*, U.S. Patent No. 4,803,625, and *Kuch*, U.S. Patent No. 5,454,721.

As per claim 28, *Fujimoto* discloses that said patient interactive and feedback unit displays statistical data graphically or alphanumerically [col. 4, lines 48-56 (the pulse rate is statistically determined by taking a sample of pulses; the pulse rate is then displayed to the patient)].

*Fujimoto* does not disclose that said patient interactive and feedback unit performs a testing sequence and associated calibration and testing procedures.

*Fu et al.* teach a patient interactive and feedback unit that performs a testing sequence and associated calibration and testing procedures [Figure 7]. It would have been obvious to one of ordinary skill in the art at the time was made to combine the testing sequence and associated

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calibration and testing procedures taught by *Fu et al.* with the system of *Fujimoto*. The motivation would have been to provide an efficient way to test the system for errors to avoid possible misdiagnosis or incorrect results.

*Fujimoto* does not disclose that said patient interactive and feedback unit supplies control signals and signals representative of food intake; and simultaneously displays information representative of said monitored condition with images representative of food intake.

*Kuch* teaches a patient interactive and feedback unit that supplies control signals and signals representative of food intake; and simultaneously displays information representative of said monitored condition with images representative of food intake [col. 10, lines 6-29 (displaying nutritional information including American Dietetic Association Food Exchange Units and food images for selected foods)]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine these features of *Kuch* with *Fujimoto*. The motivation would have been to educate patients as to proper nutrition so as to carefully manage the medical condition. See *Kuch*, "Background of the Invention" for a discussion of the role of nutrition in managing illness, and the importance of using graphical tools to educate persons including diabetics as to proper nutrition.

### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Morgan whose telephone number is (703) 306-2906. The examiner can normally be reached on Monday to Friday from 8:30 a.m. to 5:00 p.m.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Voeltz, can be reached on (703) 305-9714. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-0040.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

April 24, 2000

DM

*Edward Cosimano*  
EDWARD R. COSIMANO  
PRIMARY EXAMINER